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REMARKS/ARGUMENTS

Claims 8-73 are pending in this application. By this Amendment, Applicants AMEND claim 8.

The Examiner has indicated that the Office Action dated July 16, 2001 is a Final Office Action (paragraph no. 2 on page 4 of the Office Action). The Examiner is reminded "[b]efore [a] final rejection is in order[,] a **clear issue** should be developed between the examiner and applicant." MPEP § 706.07 (emphasis added).

The Examiner has failed to consider claims 72 and 73. In the Office Action Summary of the Office Action dated July 16, 2001, the Examiner has failed to even to list claims 72 and 73. The Examiner has also failed to reject claims 72 and 73 under any prior art.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the Finality of the outstanding Office Action.

In the Advisory Action dated August 8, 2002, the Examiner has indicated that the Request for Reconsideration, dated November 8, 2001, was considered; however, the Examiner has failed to consider all of Applicants' arguments, merely stating, "Applicant's representative presented arguments previously addressed." The arguments for patentability included in the Request for Reconsideration dated November 8, 2001 are hereby repeated and incorporated by reference, given that the Examiner has failed to specifically respond to these arguments.

Of most concern to Applicants is the Examiner's failure to consider Applicants' arguments concerning references evidencing nonobviousness.

First, Applicants directed the Examiner on page 10 of the Request to Reconsider, dated November 8, 2001, to Strategic Operations: Competing Through Capabilities, published by the Harvard Business School, which shows skepticism by experts in the art concerning Applicants' claimed invention.

Second, Applicants directed the Examiner on page 11 of the Request for Reconsideration, dated November 8, 2001, to two newspaper articles, "Direct Linkage

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With Increased Information Systemization" published on August 18, 1990 in the Nikkei Sangyo Shimbun and "Kanebo Directly Links POS with FMS: A System for Cosmetics With Six Times the Productivity" published on July 31, 1990 in Nikkei Sangyo Shimbun, evidencing the unexpected results.

Accordingly, Applicants respectfully request that the Examiner fully consider and specifically respond to the Remarks/Arguments filed herewith and the Request for Reconsideration, dated November 8, 2001.

Claims 8-32 and 51 were rejected under 35 USC § 103(a) as being unpatentable over Kawashima et al. (US 5,168,445) and Rembert (US 5,101,352) and further in view of Beasley et al. (US 4,827,423). Claims 33-71 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kawashima (US 5,168,445) in view of Rembert (US 5,101,352). Applicants respectfully traverse the prior art rejection of the claims.

In addition to the numerous arguments made in the Request for Reconsideration, dated November 8, 2001, Applicants respectfully request that the Examiner consider the following arguments concerning the alleged motivation for combining the references.

First, in rejecting claims 8-32 and 51, the Examiner has alleged that it "would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Kawashima et al. with Rembert in order to determine a production quantity for the products in the plurality of sales terminals or stores in order to timely deliver products for the chain stores" in the first paragraph on page 6 of the Office Action, dated October 2, 2000, and, in rejecting claims 33-71, has alleged that it "would have been obvious to one of ordinary skill in the art at the time of the invention to determine the required quantities of raw materials required for manufacturing the production quantity of goods by introducing the MRP system of Rembert into Kawashima [et al.] so that the desired goods are timely produced and delivered" in the last paragraph on page 3 of the Office Action, dated October 2, 2000.

These motivations for combining Kawashima et al. and Rembert are clearly not proper motivations for the following reasons:

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a) As noted in the Request for Reconsideration, dated November 8, 2001, Kawashima et al. is directed to an ordering system, **NOT** a production system. Therefore, the Examiner has clearly failed to provide any motivation for modifying the ordering system of Kawashima et al;

b) The Examiner has failed to explain why the systems, when considered separately, of Kawashima et al. and Rembert fail to "timely" delivery goods. Further, the Examiner has completely failed to explain how the combining the teachings would ensure the "timely" delivery of goods; and

c) The Examiner is reminded that Patent Office must identify where the prior art provides a motivation to combine the reference. In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). The Examiner has completely failed to explain where the prior art provides these alleged motivations to combine.

Thus, instead of providing a motivation for combining the teachings of Kawashima et al. and Rembert on actual teachings or suggestions of the prior art and the knowledge of one of ordinary skill in the art at the time the invention was made, the Examiner has improperly used Applicants' own invention as a source for providing motivation. The Examiner is reminded it is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious.

Second, the Examiner has alleged that it "would have been obvious to the skilled artisan to incorporate the teachings of Beasley et al into the combination of Rembert and Kawashima et al in order to manufacture a received quantity of products for accurate and timely producing and delivering of the products to the plurality of sales terminals" in the paragraph bridging pages 6 and 7 of the Office Action, dated October 2, 2000.

This motivation to combine the teachings of Kawashima et al., Rembert, and Beasley et al. fails to be a proper motivation for the following reasons:

a) The standard for determining obviousness is what would have been obvious

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to one of ordinary skill in the art, **NOT** a skilled artisan.

b) As noted above, the Examiner has completely failed to explain why, when considered separately, the systems of Kawashima et al. and Rembert fail to "timely" deliver goods. However, the Examiner alleges that the combination of Kawashima et al. and Rembert cures this deficiency. Then the Examiner alleges that the combination of Kawashima et al. and Rembert do not solve this problem and that it is necessary to combine the teachings of Beasley et al. to cure this problem. The Examiner has clearly taken inconsistent positions with respect to the motivations for combining Kawashima et al., Rembert, and Beasley et al.

c) The Examiner is reminded that Patent Office must identify where the prior art provides a motivation to combine the reference. In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). The Examiner has completely failed to explain where the prior art provides these alleged motivations to combine.

Accordingly, Applicants respectfully requests reconsideration and withdrawal of the rejection of claims 8, 22, and 28 under 35 USC § 103(a) as being unpatentable over Kawashima et al. and Rembert and further in view of Beasley et al. and the rejection of claims 33 and 52 under 35 U.S.C. § 103(a) as being unpatentable over Kawashima in view of Rembert.

Accordingly, Applicants respectfully submit that Kawashima et al., Rembert, and Beasley et al., applied alone or in combination, fail to teach or suggest the unique combination and arrangement of elements and method steps recited in claims 8, 22, 28, 33, and 52 of the present application. Claims 9-21 depend upon claim 8 and are therefore allowable for at least the reasons that claim 8 is allowable. Claims 23-27 depend upon claim 22 and are therefore allowable for at least the reasons that claim 22 is allowable. Claims 29-32 depend upon claim 28 and are therefore allowable for at least the reasons that claim 28 is allowable. Claims 34-51 depend upon claim 33 and are therefore allowable for at least the reasons that claim 33 is allowable. Claims 53-73 depend upon claim 51 and are therefore allowable for at least the reasons that claim 51

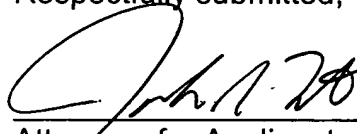
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is allowable.

In view of the foregoing amendments and remarks, Applicants respectfully submit that this application is in condition for allowance. Favorable consideration and prompt allowance are solicited.

The Commissioner is authorized to charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1353.

Respectfully submitted,



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